

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re:**

**KATHLEEN ELAINE CARTER**

**Debtor.**

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**OBJECTION TO  
CONFIRMATION**

**Case No. 19-22757-shl  
Chapter 13**

I, Brittany Maxon, Esq., an attorney duly licensed to practice law in the State of New York and admitted in the Southern District of New York, affirm the following to be true, under penalty of perjury:

1. I am an attorney with the firm of Woods Oviatt Gilman LLP, attorneys for Wells Fargo Bank, N.A. ("Secured Creditor").

2. Secured Creditor is the Holder of a Note and Mortgage secured by real property commonly known as 30 Greendale Avenue, Mount Vernon, NY 10553; which is identified by the Secured Creditor with a loan number bearing the last four digits of 5307.

3. This Affirmation is submitted for the purpose of objecting to confirmation of the Chapter 13 Plan proposed by Kathleen Elaine Carter (the "Debtor").

4. The Debtor's proposed Plan fails to provide for payment of pre-petition arrears to Secured Creditor. However, the Proof of Claim to be filed on behalf of Secured Creditor asserts pre-petition arrears in the approximate amount of \$252,175.24.

5. The Debtor's proposed plan also fails to provide for post-petition payments to Secured Creditor. As the Note is not set to mature until May 1, 2043, post-petition payments will be necessary to keep Debtor from default on post-petition. The Proof of Claim to be filed on behalf of Secured Creditor asserts the current monthly mortgage payment in the approximate amount of \$3,973.24.

6. The Debtor's proposed Plan is also seeking to enter into Loss Mitigation with Secured Creditor; however the proposed Plan does not take into consideration how the loan will be treated if Loss Mitigation is unsuccessful, nor does it provide for adequate protection payments while Loss Mitigation is pending.

**WHEREFORE,** the Secured Creditor hereby requests by virtue of the foregoing, confirmation of the Debtor's proposed Chapter 13 Plan be denied pursuant to 11 U.S.C. §1325.

DATED: May 15, 2019

/s/ *Brittany J. Maxon*

Brittany Maxon, Esq.  
WOODS OVIATT GILMAN LLP  
*Attorneys for Secured Creditor*  
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2 State Street  
Rochester, NY 14614  
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**AFFIDAVIT OF MAILING**

**Case No. 19-22757-shl  
Chapter 13**

**STATE OF NEW YORK     )  
COUNTY OF MONROE    ) SS:**

I, Penny L McNeely, being duly sworn, deposes and says:

Deponent is not a party to this action and is over 18 years of age.

**THAT** on May 15, 2019 a true and correct copy of the Objection to Confirmation was served electronically via CM/ECF upon the following:

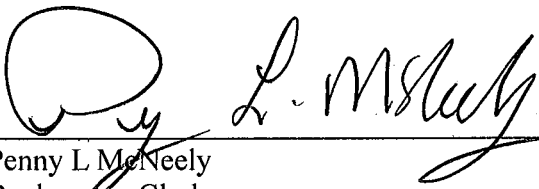
Krista M. Preuss  
Chapter 13 Standing Trustee  
399 Knollwood Road  
White Plains, NY 10603

Adrian J. Johnson  
Claudio & Johnson LLC  
280 Amboy Avenue  
Suite 3  
Metuchen, NJ 08840

Office of the U.S. Trustee  
US Federal Office Building  
201 Varick Street  
Suite 1006  
New York, NY 10014

The Deponent further served the annexed Objection to Confirmation upon the party/parties listed below by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in a post office depository under the exclusive care and custody of the United States Postal Service.

Kathleen Elaine Carter  
30 Greendale Avenue  
Mount Vernon, NY 10553

  
Penny L McNeely  
Bankruptcy Clerk

Sworn to before me this  
15th day of May, 2019.

  
Notary Public

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